

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.10.2007

CORAM

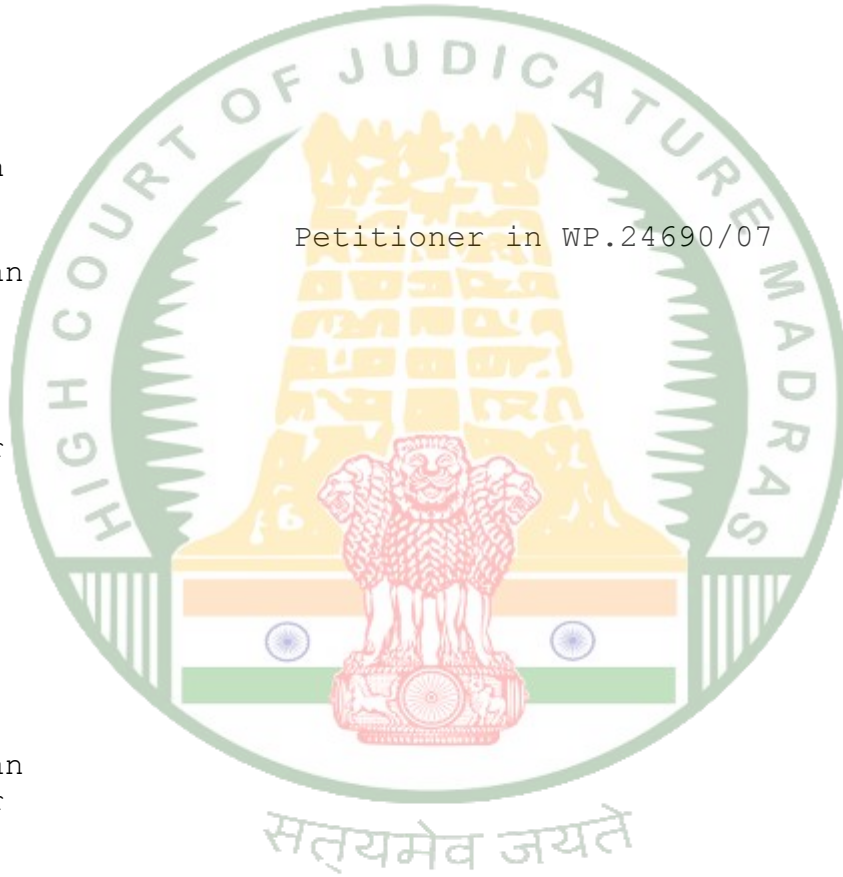
THE HONOURABLE MR.JUSTICE K.RAVIRAJA PANDIAN
AND
THE HONOURABLE MRS.JUSTICE CHITRA VENKATARAMAN

W.A.Nos.894 and 920 to 922 of 2007, W.P.Nos.10788, 10794, 12880, 16902, 16943 to 16946, 16962, 18002, 18847, 20287, 20811 to 20814, 21576 to 21581, 22259, 22672, 22683, 22755, 23009, 23325, 24690, 24728, 24743, 24895 to 24903, 24952, 24961, 24980, 25217, 25256, 25257, 25903, 26131, 26148, 26332, 26519, 26531 to 26535, 26567, 26660, 26789, 26866, 26941, 26962 to 26967, 27040 to 27049, 27220 to 27230, 27271, 27288, 27289, 27292 to 27297, 27449, 27486, 27513, 27724, 27758, 27966, 28469, 28692, 28956, 29050, 29480, 29689 to 29692 and 30488 of 2007 and M.P.Nos.1 of 2007 and M.P.Nos.2 of 2007

Mr.R.Francis	Appellants in WA 894/07
Mr.K.Kumaran	Appellants in WA 920/07
Mr.A.Michael Thasan	Appellants in WA 921/07
Mr.M.Mariadhas	Appellants in WA 922/07
Mr.S.Mohan Babu	Petitioner in WP 10788/07
Mr.A.Durai	Petitioner in WP 10794/07
M.K.Rajendran	Petitioner in WP 12880/07
V.Rathinam	Petitioner in WP 16902/07
D.Kathiravan	Petitioner in WP 16943/07
K.Krishnan	Petitioner in WP 16944/07
P.Periyasamy	Petitioner in WP 16945/07
M.Subramanian	Petitioner in WP 16946/07
Jayakumar	Petitioner in WP 16962/07
J.Victor Sundararaj	Petitioner in WP 18002/07
M.D.Ramesh	Petitioner in WP 18847/07
R.Sankar	Petitioner in WP 20287/07
E.Durai	Petitioner in WP 20811/07
G.Munirathinam	Petitioner in WP 20812/07
P.Vellaiyappan	Petitioner in WP 20813/07
M.Thangaraj	Petitioner in WP 20814/07
P.Sathiyamoorthy	Petitioner in WP 21576/07
P.Muniraj	Petitioner in WP 21577/07
A.Yesantha Rao	Petitioner in WP 21578/07
C.Muugan	Petitioner in WP 21579/07
G.Jothiappan	Petitioner in WP 21580/07
T.Selvam	Petitioner in WP 21581/07
K.Rajendran	Petitioner in WP 22259/07
C.Mories	Petitioner in WP 22672/07

G.Kumar
a.R.Ayyasamy
K.Ramachandran
Ponnusamy
K.B.Vignesh
A.Babu
G.Harikrishnan
S.Vijay
R.Kumaran
M.Bawankumar
V.Nethaji
P.Senehu Ramulu
V.Parameswaran
R.Immanuvel
P.S.Murugan
N.Ezhilarasan
H.A.Sirajitheen
V.Saravanan
R.Nesamani
K.K.Kadarmasthan
K.Ramesh
A.Anandan
P.Kannan
J.Devadoss
G.Saravanakumar
S.Narasimhan
C.Umapathy
R.Venkatesan
A.Ezhil
G.Arumugam
P.Parthiban
K.Chandru
R.Veeramani
P.Gopalakrishnan
K.Manoharakumar
K.Sudhakar
M.Pandiayan
S.Venkateshbabu
P.Babijohn
G.Neelamegam
L.Selvakumar
G.Marisamy
P.Sathivel
K.Sivakumar
M.Ramesh
G.Kennady
G.Mohanakrishnan
S.Velmurugan
R.Nakesh

Petitioner in WP 22683/07
Petitioner in WP 22755/07
Petitioner in WP 23009/07
Petitioner in WP 23325/07

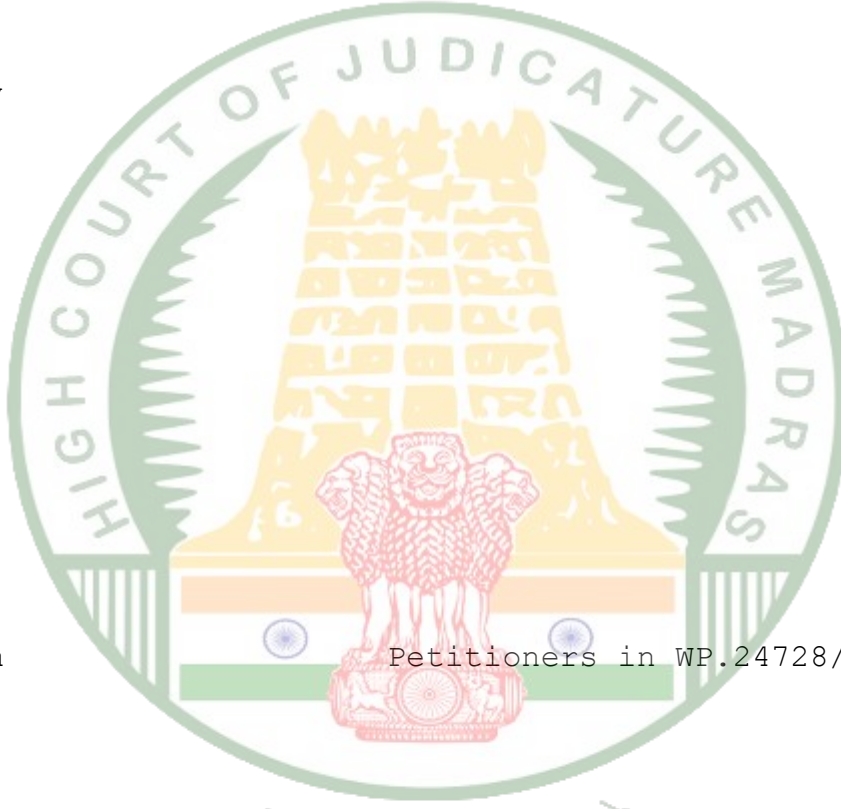


Petitioner in WP.24690/07

WEB COPY

S.Murugan
A.Delhi
D.Selvam
L.Senthilmurugan
p.Anand
J.Alishakmeeran
T.Senthil
D.Gunasekaran
E.Senthil
S.Senthur Pandian
E.Palani
R.Rajan
K.Ramalingam
V.Kamalakaran
N.Sundaramurthy
R.Padmanabhan
K.Gunaventhana
M.Karthikeyan
R.Srinivasan
L.Suresh
A.Baskar
B.Viji
L.Paramasivan
P.Amutharaj
R.Kumar
J.Chitrarasu
N.Sakthivel
T.Selvam
P.Suresh
K.Ananthakumar
D.Thanikachalam
C.Govindaraj
A.Ezhilarasu
B.Prabhu
P.Elumalai
M.Muthu
K.Pichai
T.S.Sathiskumar
P.Ragunathan
V.Babuji
M.Karunanithi
P.Vadivel
R.Natarajan
M.Paranthaman
S.R.Edwin Pawlraj
P.Sivakumar
S.Palani
S.Palanirajan
A.Jothiraj

Petitioners in WP.24690/07



Petitioners in WP.24728/07

WEB COPY

R.K.Gunasekar

K.Rajkumar

M.Saravanan

M.Nandakumar

D.Ramesh

S.Harishkumar

Kajamohideen

L.Madhavan

Petitioner in WP.24743/07

S.Ravichandran

Petitioner in WP.24895/07

M.Sampath Kumar

Petitioner in WP.24896/07

R.Balusamy

Petitioner in WP.24897/07

K.Palanisamy

Petitioner in WP.24898/07

V.Anbalagan

Petitioner in WP.24899/07

C.Periyasamy

Petitioner in WP.24900/07

C.Dhachinamoorthy

Petitioner in WP.24901/07

D.Palanisamy

Petitioner in WP.24902/07

P.Subramaniam

Petitioner in WP.24903/07

TamilNadu Arasu Pokkavarathu Kazhaga

Thozhilalar Nala Sangam rep by its

president A.Yogannan

Petitioner in WP.24952/07

K.Kesavan

Petitioner in WP.24961/07

M.Selvam

Petitioner in WP.24980/07

E.Kathiravan

Petitioner in WP.25217/07

R.Selladurai

Petitioner in WP.25256/07

V.Shankar Ram

Petitioner in WP.25257/07

V.Murugesan

Petitioner in WP.25903/07

V.P.Karthi

Petitioner in WP.26131/07

K.Ramesh

Petitioner in WP.26148/07

R.Kumaresan

Petitioner in WP.26332/07

R.Palanivelu

Petitioner in WP.26519/07

D.Nagaraj

Petitioner in WP.26531/07

J. Kesavan

... Petitioner in W.P.26532 of 2007

T. Gopal raj

... Petitioner in W.P.26533 of 2007

E. Arunachalam

... Petitioner in W.P.26534 of 2007

T. Albetterrin

... Petitioner in W.P.26535 of 2007

J. Edwin Premraj

... Petitioner in W.P.26567 of 2007

M. Subramani

... Petitioner in W.P.26660 of 2007

Tamilnadu Arasu Pokkuvarathu

Thozhilalar Sangam

Regd.No.736 Mdu

Rep by its General Secretary

Dindigul.

... Petitioner in W.P.26789 of 2007

State Transport Employee's union
Regd.No.73/MDS
Rep by its General Secretary
No.7 Pallavan Salai,
Chennai-2

... Petitioner in W.P.26866 of 2007

V. Saravanavelu	... Petitioner	in W.P.26941	of 2007
T. Mohan	... Petitioner	in W.P.26962	of 2007
P. Natarajan	... Petitioner	in W.P.26963	of 2007
P.S. Marimuthu	... Petitioner	in W.P.26964	of 2007
A. Sivasubramanian	... Petitioner	in W.P.26965	of 2007
R. Sekar	... Petitioner	in W.P.26966	of 2007
K. Arumugam	... Petitioner	in W.P.26967	of 2007
A. Muniraj	... Petitioner	in W.P.27040	of 2007
Siva Narayanan	... Petitioner	in W.P.27041	of 2007
A. Arumugam	... Petitioner	in W.P.27042	of 2007
G. Murugan	... Petitioner	in W.P.27043	of 2007
M. Elangovan	... Petitioner	in W.P.27044	of 2007
A. Kathiresan	... Petitioner	in W.P.27045	of 2007
G. Sivakumar	... Petitioner	in W.P.27046	of 2007
G. Krishnasamy	... Petitioner	in W.P.27047	of 2007
K. Ramesh	... Petitioner	in W.P.27048	of 2007
T. Lakshmanan	... Petitioner	in W.P.27049	of 2007
M. Ramaraj	... Petitioner	in W.P.27220	of 2007
S. Karnan	... Petitioner	in W.P.27221	of 2007
S. Sundarajan	... Petitioner	in W.P.27222	of 2007
M. Manimaran	... Petitioner	in W.P.27223	of 2007
N. Palaniswamy	... Petitioner	in W.P.27224	of 2007
G. Sekar	... Petitioner	in W.P.27225	of 2007
A. George Manuel	... Petitioner	in W.P.27226	of 2007
N. Natrayan	... Petitioner	in W.P.27227	of 2007
S. Murugesan	... Petitioner	in W.P.27228	of 2007
S. Muruganandhan	... Petitioner	in W.P.27229	of 2007
T. Marimuthu	... Petitioner	in W.P.27230	of 2007
A. Thirumoorthy	... Petitioner	in W.P.27271	of 2007
M. Natrajan	... Petitioner	in W.P.27288	of 2007
S. Chandrasekaran	... Petitioner	in W.P.27289	of 2007
A. Thangavel	... Petitioner	in W.P.27292	of 2007
S.R. Devaraj	... Petitioner	in W.P.27293	of 2007
T. Jayakumar	... Petitioner	in W.P.27294	of 2007
M. Balusamy	... Petitioner	in W.P.27295	of 2007
M. Kannan	... Petitioner	in W.P.27296	of 2007
C. Kalaivanan	... Petitioner	in W.P.27297	of 2007
E.A. Vadivel			
D. Damodaran			
B. Roopkumar			
P. Balasubramanian			
V. Sriman			

S. Jayakrishnan
M. Senthilkumar
S. Baskaran
G. Rakkappan
C. Ramesh
J. Udayachandran
M. Rajasekar
K. Ragupathy
V. Jayaraj
M.Veeramani
C. Muthukumar

... Petitioner in W.P.27449 of 2007
... Petitioner in W.P.27486 of 2007
... Petitioner in W.P.27513 of 2007

State Transport Employees union
Regd.No.73/Mds
Rep by its General Secretary
No.7 Pallavan Salai,
Chennai-2

... Petitioner in W.P.27724 of 2007

A. Ramadas
C.Chenniappan
S. Elumalai
V. Srinivasan
N. Pazhanivel
K. Dhommappan
T. Balasubramanian
S. Prakash
B. Arumugam
K. Vijayakumar
E.P. Balasubramaniam

... Petitioner in W.P.27758 of 2007
... Petitioner in W.P.27966 of 2007
... Petitioner in W.P.28469 of 2007
... Petitioner in W.P.28692 of 2007
... Petitioner in W.P.28956 of 2007
... Petitioner in W.P.29050 of 2007
... Petitioner in W.P.29480 of 2007
... Petitioner in W.P.29689 of 2007
... Petitioner in W.P.29690 of 2007
... Petitioner in W.P.29691 of 2007
... Petitioner in W.P.29692 of 2007

Kovai arasu Pokkuvarathu
Oozhiyar Sangam
rep by its General Secretary
Coimbatore- 641 009.

... Petitioner in W.P.30488 of 2007

The Government of Tamilnadu
rep by its Secretary
Transport Department
Fort St. George, Chennai-9

सत्यमेव जयते

... Ist Respondent in W.A.No.894/07,W.A
920/07, 921/07, 922/07, W.P.18847/07,
22672/07, W.P.24728/07, 24952/07, 26519/07,
26531/07 to 26535/07, 26789/07, 26866/07,
27288 and 27289/07, 27449/07, 27513/07,
27724/07, 28956/07, 29689 to 29692 of 2007
and 30488/07.

The Government of Tamilnadu
Rep by its Secretary
Labour Employment (Nz) Department
Fort St. George,
Chennai-9.

... Ist Respondent in W.P.21576/07 to
21581/07 W.P.16962/07, 20567/07

The management of Metropolitan
Transport Corporation (Chennai Ltd)
Pallavan Salai Chennai 2.

...2nd respondent in WA.No.894/07, 18847/07,
22672/07, 23009/07, 24690/07, 24728/07,
26519/07, 26531/07 to 26535/07, 26866/07,
27449/07, 27513/07, 27724/07

...1st Respondent in WP.10788/07 10794/07,
12880/07, 20287/07, 20811 to 20814/07,
22259/07, 22683/07, 24743/07, 24961,
24980/07, 25217/07, 26148/07, 26941/07.

3rd Respondent in WP.26567/07 Respondent in
WP.No.28692/07

The Management of Tamil Nadu,
State Transport Corporation,
Rep by its Managing Director,
Division III Madurai, Madurai.

...2nd Respondent in WA.920/07 and WA.921/07

The Management of Tamil Nadu,
State Transport Corporation,
Rep by its Managing Director,
Division II, Wannarpet,
Tirunelveli District.

...2nd Respondent in WA.922/07

The General Manager,
The State Transport Corporation,
(Madurai) Ltd, Nagercoil,
Kaanyakumari District.

...3rd Respondent in WA.920 & 921/07

Tamil Nadu State Transport Corporation Ltd,
(Coimbatore Division II) rep by its
Managing Director, Chennimalai Road,
Erode District at Erode.

...1st Respondent in WP.16902/07, 16943/07,
16946/07, 18002/07, 22755/07, 23325/07,
24895/07 to 24903/07, 25256/07, 25257/07,
25903/07, 26962 to 26967/07, 27292 to
27297/07, 27486/07, 27966/07

Tamil Nadu State Transport Corporation Ltd.,
rep by Managing Director,
37, Mettupalayam Road Coimbatore

...1st Respondent in WP.27040 to
27049/07, WP.27220 to 27230/07, 27271/07
2nd Respondent in WP.No.30488/07

Tamil Nadu State Transport Corporation Ltd.,
Coimbatore Ltd, Erode Divisional Officer,
rep by its General Managing,
Senniamalai Road, Erode 1.

...2nd Respondent in WP.22755/07 23325/07,
25903/07, 27486/07, 27966/07

The General Manager,
Tamil Nadu State Transport Corporation Ltd.,
Mettupalayam Road, Coimbatore

...2nd Respondent in WP.27271/07 29689
to 29692 of 2007, 30488/07

The Assistant Director,
Employment Exchange,
Villupuram District.

2nd Respondent in WP.16962/07

The Tamilnadu Transport Corporation,
(Villupuram Kottam I), Ltd.,
rep. by The Managing Director,
Villupuram District.

3rd Respondent in WP.16962/07,
29050/07.

1st Respondent in WP.26332/07
2nd Respondent in WP.28956/07

The Special Commissioner and
Commissioner of Employment Exchange,
Chennai - 600032.

2nd Respondent in WP.21576/07 to
21581, 26567/07.

The Managing Director,
TNSTC Salem Division,
Salem.

3rd Respondent in WP.21576/07 to
21581/07, 24952/07

1st Respondent in WP.26660/07

The General Manager,
TNSTC, Salem Division - II,
Salem Main Road,
Bharathipuram,
Dharmapuri - 5.

4th Respondent in WP.21576/07 to
21581/07.

2nd Respondent in WP.26660/07

The District Employment Exchange Officer,
Dharmapuri District, Dharmapuri.

5th Respondent in WP.21576/07 to
21581/07.

The Managing Director,
Tamil Nadu State Transport Corporation,
Kovai Ltd., Coimbatore - 43.

1st Respondent in WP.26131/07

The Branch Manager,
Tamil Nadu State Transport Corporation,
Erode, Erode District.

2nd Respondent in WP.26131/07.

State Transport Corporation (Madurai) Ltd.,
Dindigul Region,
rep. by its Managing Director,
Dindigul.

2nd Respondent in WP.26789/07

Assistant Labour Commissioner,
Office of the Joint Commissioner of Labour,
Dindigul, Tamil Nadu.

3rd Respondent in WP.26789/07,

Labour Office - 2,
Kuralagam, Chennai - 108.

3rd Respondent in WP.26866/07,
27724/07.

The Managing Director,
Tamil Nadu State Transport Corporation,
(Kumbakonam Division- I) Ltd.,
Kumbakonam - 612001.

2nd Respondent in WP.27288/07 &
27289/07.

The Superintendent,
Metropolitan Transport Corporation,
Tondiarpet Depot, II,
Chennai - 81.

3rd Respondent in WP.27513/07

The Managing Director,
Tamil Nadu Transport Corporation,
Kanchipuram District.

1st Respondent in WP.27758/07.

The Tamil Nadu State Transport Corporation,
Rep. by its General Manager,
Villupuram.

1st Respondent in WP.28469/07.

The Branch Manager,
Tamil Nadu Transport Corporation,
Kalpakkam, Kancheepuram District.

2nd Respondent in WP.27758/07.

State of Tamil Nadu,
rep. by its Secretary to Government,
Department of Industries and Commerce,
Fort St. George, Chennai -9.

1st Respondent in WP.29050/07

Electronic Corporation of Tamilnadu Ltd.,
rep. by its Managing Director,
735, Anna Salai, Chennai - 2.

2nd Respondent in WP.29050/07

Tamil Nadu State Transport Corporation Ltd.,
(Salem Division I)
rep. by its Managing Director,
Ramakrishna Road, Salem - 7.

Respondent in WP.29480/07

The Deputy Commissioner of Labour,
Office of the Deputy Commissioner of Labour,
Coimbatore.

4th Respondent in WP.30488/07

For Appellant : Mr.N.G.R.Prasad for
Mr.S.T.Varadarajulu and
in W.A.No.894/2007 Mr.P.Ganesha Murthy
& for Petitioner
in W.P.NOs.26519,
26531 to 26535 and
27449 of 2007

For Appellant : Mr.N.G.R.Prasad for
Mr.I.David Singh and
in W.A.Nos.920 to Mr.S.Parthasarathy
922 of 2007

For Petitioner : Mr.K.Thilageswaran
in W.P.No.27758 Of 2007

For Petitioner : Mr.P.Sakthivel
in W.P.No.27966
Of 2007

For Petitioner : Ms.R.Vaigai
in W.P.No.24743,
26789,26866 and
27724 Of 2007

For Petitioner : M/s.Row & Reddy
in W.P.No.24728
Of 2007

For Petitioner : Ms.S.Sripriya
in W.P.Nos.27486,
27271 and 29050 Of 2007

For Petitioner : Mr.W.W.Abdul Majeed
in W.P.No.27288 Of 2007

For Petitioner : Ms.D.Nagasaila
in W.P.Nos.10788,
10794, 20287,
20811 to 20814, 22259,
22683, 23009, 24961,
24980, 25217 and 26941
of 2007

For Petitioner : Mr.D.Hariparanthaman
in W.P.Nos.24690,
26962 to 26967,
27040 to 27049,
27220 to 27230,
27292 to 27297
and 30488 of 2007

For Petitioner : Mr.P.S.Kothandaraman
in W.P.No.26660
Of 2007

For Petitioner : Mr.S.Kingston Jerold
in W.P.No.26567 Of 2007

For Petitioner : Mr.V.Raghavachari
in W.P.No.26332
and 27513 Of 2007

For Petitioner : Ms.P.Malliga
in W.P.No.25903
Of 2007

For Petitioner : Mr.K.Premkumar
in W.P.Nos.16902,
16943 to 16946
and 18002 of 2007

For Petitioner : Mr.H.S.Mohamed Rafi
in W.P.Nos.22755
and 23325 of 2007

For Petitioner : Mr.M.M.Sundresh
in W.P.Nos.24895 to
24903, 25256 and
25257 of 2007

For Petitioner : Mr.R.N.Amarnath
in W.P.No.18847
Of 2007

For Petitioner : Mr.A.Ajmal Raj
in W.P.No.24952
Of 2007

For Petitioner : Mr.C.Prakasam
in W.P.No.26131
Of 2007

For Petitioner : Mr.N.Subramani
in W.P.No.16962
Of 2007

For Petitioner : Ms.Sudha Ramalingam
in W.P.Nos.12880 and Mr.R.Venkatesh
and 26148 Of 2007
For Petitioner : Mr.R.Subramanian
in W.P.Nos.21576
to 21581 of 2007

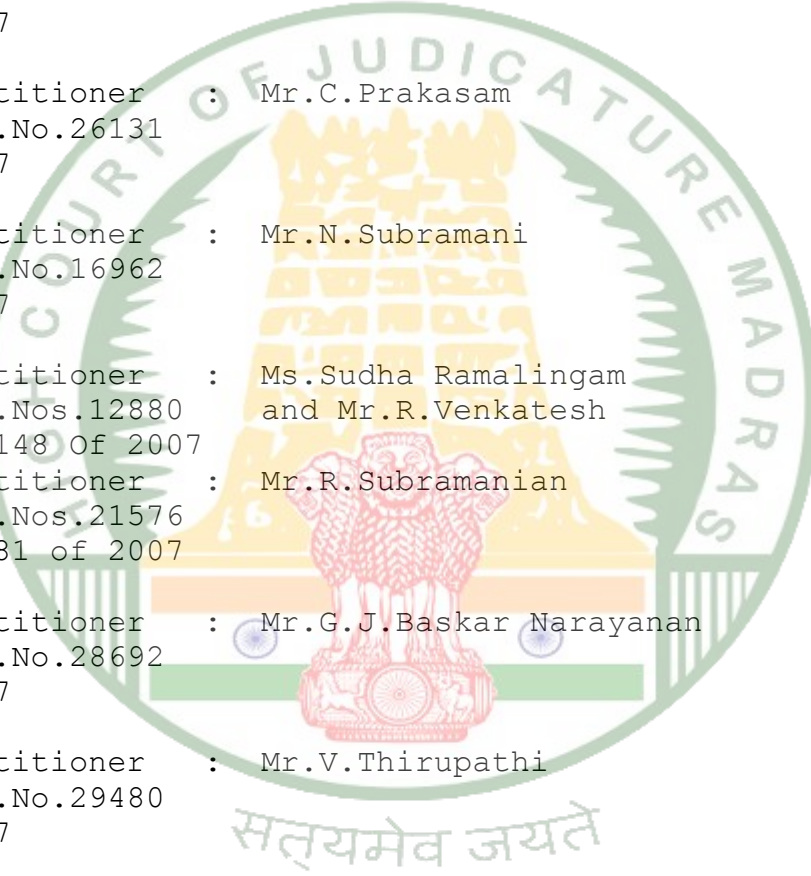
For Petitioner : Mr.G.J.Baskar Narayanan
in W.P.No.28692
Of 2007

For Petitioner : Mr.V.Thirupathi
in W.P.No.29480
Of 2007

For Petitioner : Mr.S.Pakiraj
in W.P.No.22672
Of 2007

For Petitioner : Mr.P.V.S.Giridhar Associates
in W.P.No.28469
Of 2007

For Petitioner : Mr.S.Senthilnathan
in W.P.No.28956
Of 2007



For Petitioner : Mr.K.Gandhikumar
in W.P.No.29689
Of 2007

For Respondents : Mr.R.Vidudalai,
in all W.As and Advocate General
W.Ps assisted by Mr.G.Sankaran
Spl.Govt.Pleader

JUDGMENT

K.RAVIRAJA PANDIAN, J.

The writ appeal in W.A.Nos.894 and 920 to 922 of 2007 are filed praying to set aside the order of the learned single Judge dated 25.4.2007 made in W.P.12727 of 2007 and the order dated 24.4.2007 made in W.P.Nos.11455 to 11457 of 2007 reported in (2007) 3 MLJ 233 respectively.

2. In the batch of writ petitions, one set of writ petitions are filed by persons, who were already disengaged by the respondent Corporation for issuance of writ of mandamus directing the respondent Corporation to re-employ them by giving preference over the other persons as per Section 25-H of the Industrial Disputes Act and other set of writ petitions are filed by persons still in service seeking for a mandamus directing the respondent Corporation not to terminate them and for further direction to appoint them in the permanent vacancies as drivers/conductors before appointing any other persons from the open market, as per Section 25-H of the Industrial Disputes Act.

3. Mr.N.G.R.Prasad, learned counsel for the appellant and some of the petitioners spearheaded the arguments, made submissions in common questioning the order of the learned single Judge, which is the subject matter of the writ appeals in W.A.Nos.920 to 922 of 2007 and with reference to W.P.No.24728 of 2007. Ms.Vaigai, learned counsel for some of the petitioners supplemented the argument of Mr.Prasad by advancing argument with reference to W.P.Nos.24743 and 24744 of 2007. Mr.Hariparanthaman and Ms.Nagasaila, learned counsel for some of the writ petitioners seeking similar relief adopted the arguments of Mr.Prasad and Ms.Vaigai.

4. Before advertng to the arguments advanced, the factual matrix, which are almost similar in all cases except the relief sought for as stated above are to be stated as under:

5. W.A.Nos.920 to 922 of 2007 are filed against the common order dated 24.4.2007 in W.P.Nos.11455 to 11457 of 2007, which was followed for rejecting the writ petition No.12727 of 2007 by reason of the order dated 25.4.2007, which is the subject matter of W.A.No.894 of 2007.

In W.P.No.11455 of 2007, the claim of the petitioner was that he was working as driver with the second respondent Corporation from 2.6.2005 onwards on casual appointment and was retrenched from service on and from 23.7.2006. When all the representations made by the petitioner were went in vain, he filed a writ petition in W.P.No.24856 of 2006 and obtained an order dated 7.8.2006 from this Court directing the Corporation to consider his representation. The Corporation by its order dated 18.9.2006 passed orders by assigning reasons that he had not worked for 240 days in the Corporation, that he had worked from 19.7.2005 to 6.8.2005 for 14 days and thereafter he had worked from 16.4.2006 to 7.5.2006 and altogether he had worked for 27 days, that his employment was necessitated due to increase in work load during festivals, absenteeism by workmen and also due to the strike notice issued by some unions. At the time of employment, the petitioner was aware that he was not eligible for any permanency, no appointment order was given to him, much less and no assurance was given to him for continuance of his employment after the expiry of the spell for which he was engaged. Further, he was informed that G.O.Ms.No.41 Transport (C.1) Department dated 13.7.2006 would not apply to him. The facts of the W.P.No.11456 of 2007 are also similar to W.P.No.11455 of 2007 except the difference that the petitioner was worked for a period of 12 days as per the order impugned.

6. Challenging the said orders of the Corporation, the petitioners in W.P.Nos.11455 and 11456 of 2007 filed writ petitions praying for issuance of writ of certiorarified mandamus to call for the records relating to the order passed by the Corporation dated 18.9.2006 and quash the same and further direct the respondent to implement G.O.Ms.No.41 Transport (C.1) Department dated 13.7.2006 by following the Division Bench judgment and re-employ the petitioner to the post of driver in the respondent Corporation. The writ petition No.11457 of 2007 was filed claiming that the petitioner had worked for more than 240 days. On direction from this Court in W.P.No.761 of 1999, his claim was considered and rejected on the premise that he did not complete 240 days. However, the petitioner once again on the strength of G.O.Ms.No.41 Transport (C.1) Department dated 13.7.2006 filed the writ petition seeking for re-employment under Section 25-H of the Industrial Disputes Act.

7. It could be seen from the order of the learned single Judge that during 1997, several writ petitions were filed seeking for re-instatement in service in the respondent Corporation. The Division Bench in W.A.Nos.1294 to 1299 of 1997 directed the respondent Corporation to reinstate the workers, who have completed 240 days of work, but retrenched in violation of Section 25-F, disregarding the fact whether they were sponsored through Employment Exchange or not. That order has become final.

8. Subsequently, the Government imposed ban on filling up of posts in public sector undertakings by G.O.Ms.No.27 Finance (BPE) Department dated 21.1.2002. Thereafter, by G.O.Ms.No.57 Transport dated 21.7.2005,

the Government relaxed the ban of appointment and permitted as a special case to recruit 2000 drivers and 700 conductors in the respondent Corporation. When that exercise was being carried out by the respondent Corporation, the general election to the Legislative Assembly was announced and the model code of conduct came into operation. Hence, the persons selected as per the Government Order in G.O.Ms.No.57 Transport dated 21.7.2005 were not allowed to join duty. After the election, another Government Order in G.O.Ms.No.41 dated 13.7.2006 came to be issued, giving preference in appointment in the respondent Corporation to the persons, who were retrenched after their original engagement in the year 1997 and obtained orders from this Court for their re-employment in terms of Section 25-H of the Industrial Disputes Act. In addition to that, preference was also given to similarly placed persons, who have approached this Court, but yet to get orders. Further preference was also given to the persons, who were terminated from service, but not approached the Court.

9. The persons, who were selected under G.O.Ms.No.57 Transport dated 21.7.2005 being aggrieved by the terms of G.O.Ms.No.41 Transport (C.1) Department dated 13.7.2006, filed a spate of writ petitions challenging the said G.O. The persons, who claimed benefit under the G.O.41, filed writ petitions for enforcement of the same. The learned single Judge upheld the validity of the G.O. barring the crucial year fixed as 1997. That order was carried on appeal before the Division Bench in W.A.Nos.345 to 347 of 2007, and disposed of on 12.3.2007 by recording the statement of the respondent that the appellants in the writ appeals and similarly placed persons would be first considered for appointment in the respondent Corporation (who were selected under G.O.Ms.No.57 Transport dated 21.7.2005) subject to their fulfilling of qualifications prescribed therefor. Thereafter the present writ petitions, which are the subject matter of the writ appeals, were filed before the Court claiming straight away mandamus to the respondents to implement the G.O.Ms.No.41 Transport (C.1) Department dated 13.7.2006 by following the Division Bench judgment of this Court dated 8.12.1997 made in W.A.Nos.1294 to 1299 of 1997.

10. While considering these three writ petitions, the learned single Judge considered the scope of Section 25-H with reference to the definition of the term "retrenchment" under Section 2(o), as amended by Act No.49 of 1984 with effect from 18.8.1984 and held that the right of re-employment under Section 25-H of the Industrial Disputes Act would have to be determined only if an employee's retrenchment comes within the definition of the term "retrenchment" found in Section 2(o) of the Industrial Disputes Act and that it was not hit by the exception found in sub-section (b). The claim of the workmen would have to be determined as per Section 25-H of the Industrial Disputes Act as observed by the learned single Judge in his order dated 14.12.2006, wherein the G.O.Ms.No.41 Transport (C.1) Department dated 13.7.2006 was upheld. The writ petitioners, who came to the Court with bogus claim, were not entitled for any consideration.

11. While considering G.O.Ms.No.41 dated 13.7.2006, the learned single Judge observed that though the object of the first respondent in issuing G.O.Ms.No.41 dated 13.7.2006 to accommodate the persons covered by paragraph 4(i) might be inevitable, but the direction given in paragraph 4 (ii) and 4(iii) of the Government Order could not be undertaken by the respondent Corporation either until further orders are passed by this Court in cases filed by the workers or in other cases, the workmen get a declaration from the appropriate Labour Court. Thus, recording the finding, the learned single Judge dismissed the writ petitions by holding that the impugned order passed by the respondent Corporation did not suffer from any illegality or irregularity.

12. The facts of Writ Petition in W.P.No.24728 of 2007, which have been filed by as many as 25 petitioners, with reference to which the main argument has been advanced by Mr.Prasad are as follows:

The petitioners were employed as conductors in the second respondent Corporation. All the petitioners have continuously worked as conductors for more than 240 days in the second respondent Corporation. The second respondent Corporation operates nearly 3000 buses. As per the man power norms fixed by the second respondent, there should be 2.5 drivers and 2.5 conductors per bus. Accordingly, the respondents should have 7500 drivers and 7500 conductors. But at the time of filing of the writ petition, the second respondent is having only 6000 drivers and 6000 conductors due to the reason of order of ban on recruitment of drivers and conductors. The second respondent in order to get over the problem of man power shortage, engaged temporary hands intermittently. As a result, the workers continued to be engaged for years temporarily. Some other retrenched workmen approached this Court and obtained an order from a Division Bench of this Court in W.A.Nos.1294 to 1299 of 1997 dated 8.12.1997 to the effect that the retrenched workmen, who had completed 240 days should be reinstated in service with back wages and continuity of service and in the cases of others, they should be given preference against future vacancies as per Section 25-H of the Industrial Disputes Act, 1947. The petitioners are entitled to the same treatment. The petitioners also entitled to the benefit of the Government Order in GO.Ms.No.41 Transport (C.1) Department dated 13.7.2006.

13. The material facts of the case in W.P.No.24743 of 2007 with reference to which Ms.Vaigai argued, are as follows:

There are 26 petitioners. One Govindaraj sworn the affidavit. As per the affidavit, the petitioners were appointed on 6.12.2005 and have been continually working without any break in service for more than 430 days. As per the relevant clause of the 12(3) settlement reached between the Union and the respondent Corporation in the year 1992, all temporary/casual/contract workers on daily wages who had come through Employment Exchange and completed 240 days in a year of service would be permanently absorbed in the respondent Corporation. This clause was

reiterated in the settlement dated 31.8.2005. The petitioners stand on different footing. The stand of the respondent that in order to claim the benefit sought, the petitioners would come under Section 2(oo) of the Industrial Disputes Act would not be applicable to them, as they are engaged with due sanction of the Government after following rules and procedure. The petitioners are entitled to protection under the settlement.

14. The Assistant Manager (Legal), Metropolitan Transport Corporation, Chennai filed a common counter affidavit as the relief sought for in all these cases under consideration are one and the same. In the counter, it is averred that the writ petitions are not maintainable inasmuch as the petitioners are having effective alternative remedy under the provisions of Industrial Disputes Act, 1947 considering the relief prayed for. It was further contended that the petitioners have been engaged in casual temporary vacancies on contract basis for a fixed period. The termination would be only under Section 2(oo)(bb) of the Industrial Disputes Act, 1947 and as such the same could not be regarded as retrenchment. In the vacancies arose due to unforeseen circumstances like strike, festivals and large scale absenteeism, the Government directed the Corporation to engage persons temporarily on contract basis for 25 days to cater the needs of the public. Pursuant to the said direction, persons were engaged for the said period from time to time, the last of such engagement was made as per the circular of the Corporation in Circle No.26225/PS(7)/1/MTC 2005 dated 12.3.2007 upto 7.4.2007. After 7.4.2007, no such engagement was made. As per the common service rules, respondent Corporation could fill up the permanent vacancies only through Employment Exchange. As per Rule (3) of the certified standing order, a temporary worker is one, who holds the post other than permanent post. The casual worker is one who engaged on work of casual nature on a day to day basis for odd periods. Under the respondent Corporation, nearly 13,300 drivers and conductors are working and out of them, 10% drivers and conductors are availing leave, indulging sudden absenteeism, and further not available to work on suspension of misconduct. Hence, in such temporary vacancies, persons are engaged for a fixed period from time to time on temporary basis to cater the needs of general public. It is an uncontroverted and admitted fact that the petitioners have been engaged on contract basis temporarily for fixed period. Accordingly, the termination cannot be construed as retrenchment under Section 2(oo) of the Industrial Disputes Act.

15. After issuance of the Government Order in G.O.Ms.No.41, the respondent started the process of appointment, however, the said Government Order was challenged before this Court, which culminated in filing of Writ Appeals in W.A.Nos.345 to 347 of 2007 and they were disposed of with a direction to the respondent to consider the case of the persons, who were selected pursuant to the G.O.Ms.No.57 dated 21.7.2005 and further direction was issued after completing the process of selection out of 2005 panel pursuant to G.O.Ms.No.57 dated 21.7.2005, the panel prepared for 2006-2007 should be taken up for filling up of the vacancies.

In order to comply with the direction of this Court dated 12.3.2007, the respondent should be allowed to disengage the persons, who are in service under the cover of the interim orders passed. The Management could not exercise any disciplinary control or any sort of control over the petitioners. Neither the Writ Appeals nor the writ petitions deserves any consideration.

In the counter filed by the General Manager of the respondent Corporation, it is averred that since the C.L.R. Persons were not regular employees of the Corporation, there is no question of termination by the Management of the respondent.

16. Mr. Prasad, learned counsel appearing for the appellants/petitioners contended that the Division Bench of this Court in a similar set of facts by its order dated 8.12.1997 in W.A.Nos.1294 to 1299 of 1997 etc., batch directed the Corporation to reinstate the employees, who have completed 240 days. In that case also, the only defence taken by the Corporation was that the appellants therein were not drafted from Employment Exchange and the same was rejected in the said judgment. The S.L.P. filed against that judgment was dismissed as withdrawn on 19.3.1999. The said judgment was further re-affirmed by the Division Bench in W.A.No.2083 of 1999 dated 26.10.1999. The said judgment has been subsequently followed in several other cases. When such an issue has been decided by the Division Bench of this Court, the learned single Judge would not have ventured, rather, it is impermissible for him to take a different view. Even the subsequent Government Order in G.O.Ms.No.41 dated 13.7.2006 was tested by this Court and ultimately reached finality by order dated 12.3.2007 in W.A.Nos.345 to 347 of 2007. The appellants/petitioners were employed in the permanent vacancies, because of the ban order was in force during the relevant period of time, of course, without any proper appointment order. The non-issuance of the appointment order would not militate the issue as the petitioners were working continuously for more than 240 days in the respondent Corporation. Hence, they are entitled to preference under Section 25-H of the Industrial Disputes Act in view of the Division Bench Judgment made in W.A.No.1294 to 1299 of 1997 etc., batch.

17. Ms. Vaigai, learned counsel argued with reference to W.P.No.24743 of 2007 in which 26 petitioners were arrayed as parties. She argued that the petitioners were employed in the respondent Corporation for more than 430 days. They paid the deposit amount and surrendered their driver/conductor licence to the Corporation and they are still in the service of the respondent, which shows that the petitioners are engaged in the permanent vacancies. It is also a fact on record that from the year 1996 onwards, no permanent recruitment was made by the respondent. The ban order came into existence only in 2002. In 2005, 12(3) settlement has been arrived at between the respondent Corporation and the labour unions for absorption of employees who put in 240 days of continuous service. The reasoning stated in the counter that the petitioners were employed in the

leave vacancy, festival vacancy is not correct. Though the appointment was styled as contractual employment, in substance, it is an appointment to the permanent vacancy. The collection payment slips attached to the typed set of papers would prove beyond doubt that the petitioners are in the employment of the respondent continuously without any break. As per the Division Bench judgment dated 8.12.1997, the petitioners ought to have been given preference in the employment and they should have been absorbed in permanent vacancy. She further contended that on a dispute raised by Unions, who are petitioners in W.P.Nos.26789 and 26866 of 2007, the Labour Officer on 17.7.2007 issued a notice calling upon the respondent Corporation for conciliation. When the dispute is pending for conciliation, conditions of service of the petitioners should not be altered as per the provisions of the Industrial Disputes Act. She relied on the following judgments.

- (1) CENTRAL BANK OF INDIA VS. S.SATYAM (1996) 5 SCC 419;
- (2) JAIPUR ZILA VS. RAM GOPAL SHARMA (2002) 2 SCC 244;
- (3) INDIAN TELEPHONE INDUSTRIES VS. PRABHAKAR H.MANJUARE (2003) 1 SCC 320 and
- (4) SONAPAT COOP.SUGAR MILLS VS. RAKESH KUMAR (2005) 13 SCC 578.

She alternatively contended that if this Court comes to the conclusion that the petitioner is not entitled to get any relief in the writ petition under Article 226 of the Constitution of India, till the petitioners move the appropriate forum under the provisions of the Industrial Disputes Act, their continuance in the service of the respondent may be protected.

18. The learned Advocate General Mr.R.Viduthalai appearing for the respondent submitted that none of the petitioners were employed in the regular service of the respondent Corporation. The proceedings dated 17.2.2005 of the respondent Corporation is very clear that the Government had permitted the Corporation to engage drivers on contract basis for a period from 25 days from 18.2.2005 to 14.3.2005, both days inclusive on contract basis only. The subsequent proceedings issued on various dates from 14.3.2005 to 12.3.2007 giving direction to the Managing Director of the respondent Corporation for engagement of drivers and conductors on contract basis for a period prescribed therein would manifestly make it clear that none of the petitioners have been appointed on a regular basis. All the appointments were made only on casual and adhoc basis without reference to the common service rules or certified standing orders. Having regard to the situation prevailing in the respondent Corporation, the Government thought it fit to issue Government Order in G.O.Ms.No.41 Transport Department dated 13.7.2006 which was upheld with certain modification by the Division Bench by its order dated 12.3.2007 in W.A.Nos.345 to 347 of 2007. The said judgment would not cover the case of the petitioners before this Court in these writ appeals and writ petitions. Whether the cessation of employment of a person is retrenchment or not is a question of fact to be decided by the Labour Court or Industrial Tribunal on a properly raised dispute. The cessation of

employment of persons on the expiry of the period for which they were engaged to meet a specific contingency is not "retrenchment" since such case falls under the exclusionary clause contained in clause (bb) of Section 2(oo) of the Industrial Disputes Act, 1947. The implementation of the order of the High Court and taking appropriate action for that purpose does not amount to changing the service conditions of the petitioners. The petitioners are alleged to have employed after 21.7.2005 claiming benefit placing reliance on G.O.Ms.NO.41 dated 13.7.2006 is misconceived in law.

19. We heard the argument of the learned counsel on either side and perused the materials on record.

20. From the rival contentions, the issues for consideration in these cases are as follows:

1. Whether the order of the learned single Judge can be regarded as contrary to the Division Bench judgments of this Court in W.A.Nos.1294 to 1299 of 1997 etc., batch dated 8.12.1997, W.A.Nos.2083 of 1999 dated 26.10.1999, W.A.No..2985 of 2003 etc., batch dated 8.12.2005 reported in 2006(1) LLN 257 (M.SEKARAN AND OTHERS VS. GENERAL MANAGER, TAMIL NADU STATE TRANSPORT CORPORATION) and W.A.Nos.345 to 347 of 2007, dated 12.3.2007?

2. Whether the action of the respondent Corporation disengaging the petitioners after the period for which they were engaged or the non-renewal of contract of the petitioners would amount to retrenchment or not within the meaning of Section 2 (oo)?

3. Whether the petitioners, who are stated to be in the employment of the respondent Corporation for more than 240 days, are entitled for regularisation by way of mandamus from this Court?

4. Whether in the facts and circumstances of the case, the disengagement of the petitioners from service of the respondent Corporation would contravene Section 33 of the Industrial Disputes Act?, and

5. Whether G.O.Ms.No.41 Transport (C.1) Department dated 13.7.2006 is applicable to the case of the petitioners/appellants in the given set of facts?

21. Issue No.1: A reading of the judgment dated 8.12.1997 made in W.A.Nos.1294 to 1299 of 1997 etc., shows that the case of the appellants therein was that the appellants had been in continuous employment of more than 240 days with the respondent Corporation. Their services were terminated without complying with the provisions of Section 25-F. The other category of the appellants were employees who had not completed 240 days and their services had been dispensed with without complying with

Section 25F and 25H of the Act. The defence of the Corporation before the Division Bench was that the employees, who came through the Employment Exchange, claimed preference over the persons, who have already been employed. Considering the factual situation, the Division Bench directed the appellants to undertake the exercise of deciding each individual case of the workers whether they had completed 240 days of work and they were terminated without following Section 25-F of the Industrial Disputes Act and if found affirmative directed the respondent to reinstate the workers with back wages and consequential benefits. Further, the Division Bench has observed that since the workers were taken in service, it was immaterial whether they were taken through Employment Exchange or directly, unless the authority comes to the conclusion that the workers were employed mala fide or with some other ulterior consideration.

22. The writ appeal No.2083 of 1999 was filed against the order of the learned single Judge allowing the workman's writ petition by following a Division Bench judgment of this Court in W.A.No.143 of 1997 etc., batch. Before the Division Bench, the Corporation/appellant submitted that the earlier writ appeal was disposed of on the basis of the concession and therefore it could not be regarded as precedent. That contention was rejected by the Division Bench on the reason that the judgment therein did not disclose any such concession and the writ appeal has been dismissed by the subsequent Division Bench on the ground that since the learned single Judge has followed the decision of the Division Bench, they found no reason to interfere with the order. No other points or grounds were taken therein.

23. In the other Division Bench judgment dated 8.12.2005 reported in 2006(1) LLN 257 (M.SEKARAN AND OTHERS VS. GENERAL MANAGER, TAMIL NADU STATE TRANSPORT CORPORATION), the facts are totally different. In that case, the Corporation recruited about 75 drivers through Employment Exchange during March 2001. On completion of necessary training, they were issued orders dated 18.4.2001 appointing them on consolidated wages for two years describing them as trainee drivers. Then, as per Section 12(3) settlement, which came into force on 1.9.1992, the drivers recruited through Employment Exchange were made as daily-rated workmen. As per the settlement, on completion of 240 days by those daily rated drivers, they should be made permanent. On completion of 240 days, the drivers were issued orders, dated 30 January 2003/ 29 March 2003, making them permanent and bringing them to scale of pay. However, the Transport Corporation cancelled the said orders and made the drivers as daily-rated with the condition that the drivers would be relieved from service on completion of two years by its orders dated 3 April 2003. That order was came to be challenged.

24. From the factual situation of each of the writ appeal stated above, it is clear that the issue as to whether the retrenchment of the workers would come within the purview of Section 2(oo) of the Industrial Disputes Act was not put in issue before the Division Benches and there

was no finding given to that effect in any one of the Division Bench judgments referred to by the learned counsel for the appellants. The scope and amplitude of Section 2(oo) was also neither argued nor taken into consideration in the said judgments so as to come to the conclusion that the appellants therein were entitled to the benefit of Chapter V-A of the Industrial Disputes Act in general or Section 25-H in particular. Of course, in the Division Bench judgment dated 8.12.1997, there was an observation to the effect that since the workers were taken in service, it is immaterial whether they were taken through employment exchange or directly. The observation has also not been made after taking into consideration of the common service rules applicable to the respondent or the certified standing orders, which requires that the permanent vacancy could be filled up only through the Employment Exchange.

25. Further, at the time of passing of the above said judgment, the law enunciated by the Supreme Court in the case of A.UMARANI VS. REGISTRAR, COOPERATIVE SOCIETIES AND OTHERS (2004) 7 SCC 112 and STATE OF KARNATAKA VS. UMADEVI (2006) 4 SCC 1 were not available. In Umarani's case, the Supreme Court without any uncertain terms has declared that the appointments made in contravention of the mandatory provisions of the Act and statutory rules framed thereunder and in ignorance of essential qualification would be illegal and cannot be regularised. Further, in Umadevi's case, the Supreme Court has categorically held that the wide powers under Article 226 are not intended to be used for a purpose to defeat the concept of social justice and equal opportunity for all, subject to affirmative action in the matter of public employment as recognised by our Constitution. It was time that the courts desist from issuing orders preventing regular selection or recruitment at the instance of such persons and from issuing directions for continuance of those who have not secured regular appointments as per procedure established. The passing of orders for continuance tends to defeat the very constitutional scheme of public employment. That was not the role envisaged for the High Courts in the scheme of things and their wide powers under Article 226 are not intended to be used for the purpose of perpetuating illegalities, irregularities or improprieties or for scuttling the whole scheme of public employment. Its role as the sentinel and as the guardian of equal rights protection should not be forgotten. The Supreme Court further observed that the High Courts acting under Article 226 should not therefore ordinarily issue directions for absorption, regularisation, or permanent continuance unless the recruitment itself was made regularly and in terms of the constitutional scheme. Merely because an employee had continued under cover of an order of the court, under "litigious employment" he would not be entitled to any right to be absorbed or made permanent in the service.

26. In U.P. POWER CORPORATION LIMITED AND ANOTHER VS. BIJLI MAZDOOR SANGH AND OTHERS reported in (2007) 5 SCC 755, the Supreme Court held as follows:

"6. It is true as contended by learned counsel for the respondent that the question as regards the effect of the industrial adjudicators' powers was not directly in issue in Umadevi case ((2006) 4 SCC 1). But the foundational logic in Umadevi case ((2006) 4 SCC 1) is based on Article 14 of the Constitution of India. Though the industrial adjudicator can vary the terms of the contract of the employment, it cannot do something which is violative of Article 14. If the case is one which is covered by the concept of regularisation, the same cannot be viewed differently.

7. The plea of learned counsel for the respondent that at the time the High Court decided the matter, decision in Umadevi case ((2006) 4 SCC 1) was not rendered is really of no consequence. There cannot be a case for regularisation without there being employee-employer relationship. As noted above the concept of regularisation is clearly linked with Article 14 of the Constitution. However, if in a case the fact situation is covered by what is stated in para 45 of Umadevi case ((2006) 4 SCC 1) the industrial adjudicator can modify the relief, but that does not dilute the observations made by this Court in Umadevi case ((2006) 4 SCC 1) about the regularisation.

8. On facts it is submitted by learned counsel for the appellants that Respondent 2 himself admitted that he never worked as a pump operator, but was engaged as daily labourer on daily-wage basis. He also did not possess the requisite qualification. Looked at from any angle, the direction for regularisation, as given, could not have been given in view of what has been stated in Umadevi case ((2006) 4 SCC 1).

27. Further, the Supreme Court in the case of Ambica Quarry Works v. State of Gujarat (1987) 1 SCC 213 observed thus:

"The ratio of any decision must be understood in the background of the facts of that case. It has been said long time ago that a case is only an authority for what it actually decides, and not what logically follows from it. (See Lord Halsbury in Quinn v. Leathem), 1901 Appeal cases 495."

28. In the case of Reserve Bank of India v. Peerless G.F. & I Co. Ltd., AIR 1987 SC 1023 the Apex Court held:

"Interpretation must depend on the text and the context. They are the bases of interpretation. One may well say if the text is the texture, context is what gives the colour. Neither can be ignored. Both are important. That interpretation is best which makes the textual interpretation match the contextual. A statute is best interpreted when we know why it was enacted.

With this knowledge, the statute must be read, first as a whole and then section by section, clause by clause, phrase by phrase and word by word. If a statute is looked at, in the context of its enactment, with the glasses of the statute-maker, provided by such context, its scheme, the sections, clauses, phrases and words may take colour and appear different than when the statute is looked at without the glasses provided by the context. With these glasses we must look at the Act as a whole and discover what each section, each clause, each phrase and each word is meant and designed to say as to fit into the scheme of the entire Act. No part of a statute and no word of a statute can be construed in isolation. Statutes have to be construed so that every word has a place and everything is in its place."

29. In the case of *State of UP v. Synthetics & Chemicals Ltd.* (1991) 4 SCC 139, para 41. it was observed by the Supreme Court as under :

"Does this principle extend and apply to a conclusion of law, which was neither raised nor preceded by any consideration. In other words can such conclusions be considered as declaration of law? Here again the English courts and jurists have carved out an exception to the rule of precedents. It has been explained as rule of sub-silentio. A decision passes sub-silentio, in the technical sense that has come to be attached to that phrase, when the particular point of law involved in the decision is not perceived by the court or present to its mind. (Salmond on Jurisprudence 12th Edn., p. 153). In *Lancaster Motor Company (London) Ltd. v. Bremith Ltd*, (1941) 1 KB 675, the Court did not feel bound by earlier decision as it was rendered without any argument, without reference to the crucial words of the rule and without any citation of the authority?. It was approved by this Court in *Municipal Corporation of Delhi v. Gurnam Kaur*, (1989)1 SCC 101. The bench held that, 'precedents sub-silentio and without argument are of no moment'. The courts thus have taken recourse to this principle for relieving from injustice perpetrated by unjust precedents. A decision which is not express and is not founded on reasons nor it proceeds on consideration of issue cannot be deemed to be a law declared to have a binding effect as is contemplated by Article 141. Uniformity and consistency are core of judicial discipline. But that which escapes in the judgment without any occasion is not ratio decidendi. In *B. Shama Rao v. Union Territory of Pondicherry*, AIR 1967 SC 1480, it was observed, 'it is trite to say that a decision is binding not because of its conclusions but in regard to its ratio and the principles, laid down therein'. Any declaration or conclusion arrived without application of mind or preceded without any reason cannot be deemed to be declaration of law or authority of a general nature binding as a precedent. Restraint in dissenting or overruling is

for sake of stability and uniformity but rigidity beyond reasonable limits is inimical to the growth of law."
(emphasis supplied)

30. In the case of Union of India v. Dhanwanti Devi, (1996) 6 SCC 44 , at page 52 the Supreme Court held :

"According to the well-settled theory of precedents, every decision contains three basic postulates : (i) findings of material facts, direct and inferential. An inferential finding of facts is the inference which the Judge draws from the direct, or perceptible facts; (ii) statements of the principles of law applicable to the legal problems disclosed by the facts; and (iii) judgment based on the combined effect of the above. A decision is only an authority for what it actually decides. What is of the essence in a decision is its ratio and not every observation found therein nor what logically follows from the various observations made in the judgment. Every judgment must be read as applicable to the particular facts proved, or assumed to be proved, since the generality of the expressions which may be found there is not intended to be exposition of the whole law, but governed and qualified by the particular facts of the case in which such expressions are to be found. It would, therefore, be not profitable to extract a sentence here and there from the judgment and to build upon it because the essence of the decision is its ratio and not every observation found therein. The enunciation of the reason or principle on which a question before a court has been decided is alone binding as a precedent. The concrete decision alone is binding between the parties to it, but it is the abstract ratio decidendi , ascertained on a consideration of the judgment in relation to the subject-matter of the decision, which alone has the force of law and which, when it is clear what it was, is binding. It is only the principle laid down in the judgment that is binding law under Article 141 of the Constitution. A deliberate judicial decision arrived at after hearing an argument on a question which arises in the case or is put in issue may constitute a precedent, no matter for what reason, and the precedent by long recognition may mature into rule of stare decisis. It is the rule deductible from the application of law to the facts and circumstances of the case which constitutes its ratio decidendi."

(emphasis supplied)

31. The Supreme Court in the case of Government of India v. Workmen of State Trading Corporation (1997) 11 SCC 641, while dealing with a case, wherein an earlier decision of the Supreme Court was sought to be relied upon, which did not set out the facts and circumstances in which the order

came to be passed against the Government, nor did it set out any reasoning to pass such an order, held that such an order was not a binding precedent. The relevant portion of the order reads as under :

"The decision of this Court is virtually a non-speaking order which does not set out the facts and the circumstances in which the direction came to be issued against the Government. It is not clear as to what was the connection between the respondent-Corporation and the State Government. In the present case the Government of India had clearly averred that it had nothing to do with the State Trading Corporation and there was no relationship of master and servant between the petitioners and the Government of India and, therefore, the Government of India was not in any manner concerned with the closure of the Leather Garment unit of the State Trading Corporation and the consequences thereof. Mr Usgaocar rightly emphasised that the decision on which the High Court had relied could not be treated as a precedent and in support of this contention he drew our attention to a Constitution Bench judgment in the case of Krishena Kumar v. Union of India, 1990 (4) SCC 207. In paras 18 and 19 the question as to when a decision can have binding effect has been dealt with. We need say no more as it is obvious from the decision relied on that it does not set out the facts or the reason for the conclusion or direction given. It can, therefore, not be treated as a binding precedent."

32. In the case of Arnit Das v. State of Bihar, (2000) 5 SCC 488 the Supreme Court has observed in paragraph 20 as under :

"A decision not expressed, not accompanied by reasons and not proceeding on a conscious consideration of an issue cannot be deemed to be a law declared to have a binding effect as is contemplated by Article 141. That which has escaped in the judgment is not the ratio decidendi. This is the rule of sub silentio, in the technical sense when a particular point of law was not consciously determined."

33. The Supreme Court in the case of INDIAN DRUGS & PHARMACEUTICALS LIMITED VS. WORKMEN, INDIAN DRUGS & PHARMACEUTICALS LIMITED (2007)1 SCC 408, held as follows:

"41. No doubt, in some decisions the Supreme Court has directed regularisation of temporary or ad hoc employees but it is well settled that a mere direction of the Supreme Court without laying down any principle of law is not a precedent. It is only where the Supreme Court lays down a principle of law that it will amount to a precedent. Often the Supreme Court issues directions without laying down any principle of law, in which case, it is not a precedent. For instance, the Supreme Court often directs appointment of someone or

regularisation of a temporary employee or payment of salary, etc. without laying down any principle of law. This is often done on humanitarian considerations, but this will not operate as a precedent binding on the High Court. For instance, if the Supreme Court directs regularisation of service of an employee who had put in 3 years service, this does not mean that all employees who had put in 3 years service must be regularised. Hence, such a direction is not a precedent...."

34. In the present case, as already stated, the learned single Judge, after referring to all the three Division Bench judgments and holding that the judgments have become final in paragraph No.9 of his order, having regard to the subsequent development of filing of spate of writ petitions and in certain cases, with bogus claim, thought it fit to decide the scope and amplitude of Section 2(oo) and virtually decided the issue and rendered a finding. In that process, the learned single Judge has also taken into consideration of the judgment of the Supreme Court in the case of CENTRAL BANK OF INDIA VS. S.SATYAM AND OTHERS (1996) 5 SCC 419 and the subsequent decision of the Supreme Court in the case of REGIONAL MANAGER, SBI VS. RAKESH KUMAR TEWARI (2006) 1 SCC 530, which were rendered prior to the amendment inserted to Section 2(oo) by amending Act NO.49 of 1984. None of the earlier Division Bench judgments decided the cases with reference to the issue taken up for consideration by the learned single Judge.

35. Thus, the learned Judge has considered the legal issue whether the petitioners are entitled to the benefit of Section 25-H of Industrial Disputes Act with reference to Section 2(oo) as amended by Act No.49 of 1984 and held only those petitioners, who are not hit by the exception clause under (bb) alone are entitled to the benefit under Section 25-H and that too, on a proper adjudication made. We are of the view that the said exercise had never been done by any of the Division Bench Judgments with which petitioners made reliance. We are in complete agreement with the view taken by the learned single Judge.

36. Now, coming to G.O.Ms.No.41 Transport Department dated 13.7.2006, though the learned single Judge has observed that paragraphs 4 (ii) and 4(iii) of G.O.Ms.No.41 are contrary to the provisions of the Industrial Disputes Act and violative of Articles 14 and 16 of Constitution of India, the learned single Judge has not set aside the same, which shows the consciousness of the learned single Judge that the G.O.Ms.No.41 has been upheld by another learned single Judge and merged with the order of the Division Bench in W.A.Nos.345 to 347 of 2007 dated 12.3.2007. Having regard to the above position, the learned single Judge has clarified that though the object of the first respondent -Government in issuing G.O.Ms.NO.41 Transport Department dated 13.7.2006 to accommodate the persons covered by paragraph 4(i) might be inevitable, but the exercise directed to be undertaken in paragraphs 4(ii) and 4(iii) of the said G.O. could be undertaken by the second respondent only if further

orders are passed by this Court in the cases which are pending consideration and in other cases the workmen get declaration from the appropriate Labour Court after establishing that they were actually retrenched in terms of Section 2(oo) of the I.D.Act. This finding is also an invited finding of the petitioners, as they sought for regularisation under Section 25-H and also under G.O.Ms.No.41 Transport Department dated 13.7.2006. In view of the reasoning stated above and in the light of the various decisions of the Supreme Court referred supra, we are of the considered view that Issue No.1 has to be answered in negative against the appellants and petitioners.

37. Issue Nos.2 and 3: It is the case of the appellants/petitioners that they have been in employment of the respondent Corporation more than 240 days continuously but temporarily prior to 2002 for no reason and subsequently, in view of the ban order and they are entitled to be regularised. But it is also an admitted fact that the appellants and the petitioners are not appointed as per the common service rules, which require that the Corporation has to fill up permanent vacancies only through employment exchange. It is also an admitted case of the appellants and petitioners that they have been appointed as casual adhoc employee and no appointment order has been issued to them. In that factual situation, they are seeking the relief of regularisation on the only ground that they have been in the employment of the respondent for more than the prescribed period of 240 days. However, it is the definite stand of the respondent Corporation that the appellants and petitioners are engaged for a period of 25 days as per the directions of the Government. In order to establish the same, the respondent Corporation has filed as many as 27 proceedings issued by the Managing Director of the second respondent right from 17.2.2005 after referring to the letter of the Government directing the Branch Managers to engage the drivers and conductors on contract basis for a period of 25 days. It is the further case of the respondent Corporation that they are not engaged as against the permanent vacancies but in the place of vacancies arise due to the mass casual leave, strike notice issued by Unions, festival season and quoting the G.O.Ms.No.27 dated 21.1.2002, which imposes ban on appointment of conductors. In view of the disputed questions of facts over the claim, this Court, while exercising the jurisdiction under Article 226, cannot decide the issue and it is for the appellants and petitioners, who claim that they are entitled to re-appointment under Section 25-H to establish before the appropriate forum under the Industrial Disputes Act that they are retrenched in terms of Section 2(oo) of the Industrial Disputes Act and as such they are entitled to the benefit of Section 25-H.

38. In Gangadhar Pillai v. Siemens Ltd., (2007) 1 SCC 533, the Supreme Court held thus:

"23. The question as to whether an employee had intermittently been engaged as casual or temporary for a number of years is essentially a question of fact. The issue as to whether unfair labour practices had been resorted to by the

employer or not must be judged from the entirety of the circumstances brought on record by the parties.

24. Only because an employee has been engaged as a casual or temporary employee or that he had been employed for a number of years, the same by itself may not lead to the conclusion that such appointment had been made with the object of depriving him of the status and privilege of a permanent employee. Unlike other statutes, the employer does not have any statutory liability to give permanent status to an employee on completion of a period specified therein. What is, therefore, necessary to be considered for drawing an inference in terms of the said provisions would be to consider the entire facts and circumstances of the case.

.....

27. It has furthermore not been denied or disputed that services of the employees engaged on such terms would come to an end on completion of the period of contract. Such retrenchment would come within the purview of Section 2(oo)(bb) of the Industrial Disputes Act. Once the period of contract was fixed and the same was done keeping in view the nature of job, it cannot be said that the act of the employer in terminating the services of the appellant was actuated by any malice. Such an act on the part of the employer cannot be said to have been resorted to for defrauding an employee. The object of such temporary employment was bona fide and not to deprive the employee concerned from the benefit of a permanent status. We, having regard to the fact situation obtaining herein, cannot infer that the findings of the Tribunal as also the learned Single Judge of the High Court were manifestly erroneous warranting exercise of our extraordinary jurisdiction under Article 136 of the Constitution of India."

39. When a claim was made by the workman that he has continuously worked for more than 240 days and it was disputed by the employer, the onus is always on the person claiming the benefit to prove the same by adducing cogent evidence, both oral and documentary. Mere affidavit or self serving statement made by the workman would not suffice. Useful reference can be had to the 3 Judges Bench judgment of the Supreme Court in the case of R.M.YELLATTI VS. ASST.EXECUTIVE ENGINEER (2006) 1 SCC 106. So is the other judgment of the Supreme Court in the case of ONGC LIMITED VS. SHYAMAL CHANDRA BHOWMIK (2006) 1 SCC 337, wherein the Supreme Court held as follows:

"The High Courts should not entertain writ petitions directly when claim of service of more than 240 days in a year is raised. Whether a person has worked for more than 240 days or not is a disputed question of fact which is not to be examined by the High Court. Proper remedy for the person

making such a claim is to raise an industrial dispute under the Act so that the evidence can be analysed and conclusion can be arrived at. As in the instant case the legal position has not been analysed in the proper perspective, it would be appropriate if the matter is decided by the forum provided under the Act."

40. In a case on comparable facts, the Supreme Court in *National Fertilizers Ltd. v. Somvir Singh*, (2006) 5 SCC 493, after referring to *Umadevi's case* 2006(4) SCC 1, has held that if appointment is made without following rules, same being a nullity, question of confirmation of an employee upon the expiry of the purported period of probation would not arise.

41. In the case of *INDIAN DRUGS & PHARMACEUTICALS LIMITED VS. WORKMEN, INDIAN DRUGS & PHARMACEUTICALS LIMITED* (2007)1 SCC 408, the Supreme Court has held that regularisation cannot be a mode of appointment. The Court cannot direct regularisation of temporary employees appointed de hors the rules. The Supreme Court in the case of *STATE OF KARNATAKA VS. UMADEVI* (2006) 4 SCC 1 has observed in the context whether a mandamus could be issued in favour of persons who approach the Court for issuance of writ of mandamus directing the employer, the State or its instrumentalities, to absorb them in permanent service or to allow them to continue, and after referring to the Constitution Bench judgment in *RAI SHIVENDRA BAHADUR (DR.) V. GOVERNING BODY OF THE NALANDA COLLEGE* 1962 SUPP (2) SCR 144 = AIR 1962 SC 1210, it was held that the classical enunciation of the law in *RAI SHIVENDRA BAHADUR CASE* still continue and a mandamus could not be issued in favour of the employees directing the Government to make them permanent since the employees could not show that they have an enforceable legal right to be permanently absorbed or that the State has a legal duty to make them permanent. In the subsequent judgment of *PUNJAB WATER SUPPLY & SEWERAGE BOARD V. RANJODH SINGH*, (2007) 2 SCC 491, the Supreme Court after referring *A.UMARANI VS. REGISTRAR, COOPERATIVE SOCIETIES AND OTHERS* (2004) 7 SCC 112 and *STATE OF KARNATAKA VS. UMADEVI* (2006) 4 SCC 1, has ruled that such mandamus cannot be issued.

42. In view of the fore-going discussion as to the nature of dispute being disputed question of fact and in the light of the law laid down in cases referred supra, Issue Nos.2 and 3 are answered that a mandamus as sought for cannot be issued and the petitioners can establish their right before the appropriate forum under the Industrial Disputes Act.

43. Issue No.4: Ms.Vaigai contended that the Union, who are the petitioners in W.P.Nos.24743 of 2007 raised a dispute and the Labour Officer issued a notice on 17.7.2007 calling upon the respondent for conciliation. In such circumstances, the conditions of service of the petitioners cannot be altered. It is the contention of the respondent that the appellants and petitioners are appointed only for a particular period and last of the period for which they have been appointed are upto

7.4.2007 and thereafter no person has been engaged in the service of the respondent. Some other respondents, who are in service, are obtained interim orders from this Court. Only under the cover of interim orders, they are continuing in service.

44. As already stated, in all these cases, it is the stand of the respondents that the appellants/petitioners are not appointed under the common service rules or under standing order and they have been engaged as per the direction of the Government by the Branch Managers, who are not the appointing authority for a limited period of 25 days each and last of such appointment was over by 7.4.2007. Prima facie, we are of the view that the termination of service by non-renewal of contract cannot be regarded as alteration of conditions of service of the employees under Section 33 of the Industrial Disputes Act. For our opinion, we can take support of the judgment of the Supreme Court in the case of National Engg. Industries Ltd. v. Hanuman, (1968) 1 SCR 54, wherein it was observed as follows:

"7. Reliance in this connection was placed on certain cases and we shall refer to them now. In Chandrabai Uma v. Elephant Oil Mills Ltd. (1951) 1 LLJ 370, the standing order provided that a workman would lose his appointment unless he returned within 8 days of the expiry of the leave and gave explanation to the satisfaction of the authority granting leave of his inability to return before the expiry of leave. The Labour Appellate Tribunal held in that case that where a standing order provided for automatic termination of service, Section 23 of the Industrial Disputes (Appellate Tribunal) Act, 1950 would not apply. That decision in our view lays down the correct law. Section 33 of the Act corresponds to Section 23 of the Industrial Disputes (Appellate Tribunal) Act, 1950. The position therefore would be the same under Section 33 of the Act. Were therefore workman's service terminates automatically under the standing order. Section 33 would not apply and an application under Section 33A would not be maintainable."

Even otherwise the grievance of the petitioners would be taken care under Section 33-A, which provides for adjudication.

45. In the case of INDIAN ADDITIVES LIMITED, EXPRESS HIGH WAY, MANALI, CHENNAI - 68 VS. INDIAN ADDITIVES EMPLOYEE'S UNION (2005(1) CTC 1), the respondent Union filed a writ petition against the appellant Company alleging violation of Section 9-A of the Industrial Disputes Act while altering the service conditions of its members, when the dispute relates to the enforcement of right or obligation created under the Act and the Division Bench of this Court held that the only remedy available to the Union was to raise an industrial Dispute and seek adjudication of the same before the appropriate forum created under the Industrial Disputes Act, rather than approaching this Court under Article 226 of the Constitution of India. In that judgment, the Division Bench has followed the judgment of the Supreme Court in the case of RAJASTHAN STATE ROAD

TRANSPORT CORPORATION VS. KRISHNA KANT reported in AIR 1995 SC 1715, U.P.STATE BRIDGE CORPORATION LIMITED VS. U.P.RAJYA SETU NIGAM S. KARAMCHARI SANGH reported in 2004(4) SCC 268 and PREMIER AUTOMOBILES LIMITED VS. KAMLEKAR SHANTARAM WADKE reported in 1976(1) SCC 496.

46. In this case, prima facie, we are of the view that the appellants and petitioners were engaged by the Branch Managers intermittently pursuant to the order issued by the Managing Director of the respondent Corporation for a fixed period and on expiry of fixed period, the engagement was automatically severed. The matter has been agitated before this Court right from July 2006 on the date of issuance of Government Order in G.O.Ms.No.41 Transport Department dated 13.7.2006. In that factual position, raising a dispute in July 2007 before the Conciliation Officer and filing a writ petition thereafter in August 2007 is nothing but a calculated abuse of process of law. When the relationship of the petitioner with the respondent as an employee and employer, much less a regular employee itself is disputed, we are of the view that the petitioner cannot be allowed to be in service by an order from this Court under Article 226. Hence, this issue is answered in negative.

47. Issue No.5: As already stated in the summation of facts, the Government has issued G.O.Ms.No.41 Transport Department dated 13.7.2006 giving preference to persons already worked for the statutorily prescribed period and retrenched in the employment. Before the Division Bench in W.A.Nos.345 to 347 of 2007 dated 12.3.2007, an undertaking has been given that the persons selected under G.O.Ms.No.57 dated 21.7.2005 would also be considered prior to consideration of the persons entitled to benefit of G.O.Ms.No.41 Transport Department dated 13.7.2006. Whether the appellants/petitioners come within the purview of G.O.Ms.No.41 Transport Department dated 13.7.2006 is also a disputed question of fact that has to be decided by the authorities under the Industrial Disputes Act. Hence, the issue is not answered directly but the parties are relegated to the authorities under the Act.

48. Ms.Vaigai, learned counsel appearing for the petitioners has also raised a supplementary question that a settlement has been arrived between the Union and the second respondent in the year 2002 and the subsequent settlement also have such a clause for absorption of persons, who have been employed as adhoc/temporary, and worked more than 240 days. The terms of the settlement have to be complied with.

49. The question whether the relevant clause in the settlement was applicable to the workmen for providing appointment cannot be adjudicated in a writ petition. The reasons which are stated in Issue No.4 are applicable to this issue also. Useful reference can be had to the judgment of the Supreme Court in the case of KARNATAKA POWER CORPORATION LIMITED VS. K.THANGAPPAN (2006) 4 SCC 322.

50. Mrs.Vaigai has submitted that if this Court relegates the petitioners to the authorities under the Act, till such time the petitioners move the authorities, the continuation of the petitioners in service may be protected though appears to evoke the sympathy of this Court, but such relief cannot be granted in view of the judgment of the Supreme court in the case of State of Orissa v. Madan Gopal Rungta,1952 SCR 28 = AIR 1952 SC 12.

51. Ms.Vaigai, learned counsel appearing for the petitioners cited across the bar the judgments above referred to in the summation of facts. By relying on the decision of CENTRAL BANK OF INDIA VS. S.SATYAM (1996) 5 SCC 419, she contended that Section 25-H of the Industrial Disputes Act would be applicable to all retrenched workmen and not only those covered under Section 25-F read with Section 25-B and further that the word "retrenchment" would encompass every retrenchment. The said judgment has been considered by the learned single judge in an elaborate fashion in the order impugned in these writ appeals and also the subsequent decision of the Supreme Court in the case of REGIONAL MANAGER, SBI VS. RAKESH KUMAR TEWARI (2006) 1 SCC 530 has also been taken note of. The said two decisions were of no help to advance the case of the petitioners, as they were rendered prior to the amendment incorporated to Section 2(o) under Act No.49 of 1984 dated 21.8.1984 i.e., incorporation of exclusion clause (bb) in it.

52. Learned counsel further relied on JAIPUR ZILA VS. RAM GOPAL SHARMA (2002) 2 SCC 244 to contend the applicability of Section 33(2)(b) to the case on hand. That was a case in which a regular employee appointed in the Bank was dismissed after a domestic enquiry. Since certain proceedings were pending at the time of passing of the dismissal order, before the Industrial Tribunal, the Bank submitted an application under Section 33(2)(b) seeking IT's approval for the dismissal. In those circumstances of the case, the Supreme Court has held that because of the non approval of the order of dismissal or discharge, the employee would be regarded as continues to be in service as if no order of dismissal or discharge was passed. The said case is not applicable to the facts of the present case. So is the other judgment relied on by the learned counsel in INDIAN TELEPHONE INDUSTRIES VS. PRABHAKAR H.MANJUARE (2003) 1 SCC 320, which was also a case wherein the appellant company moved an application seeking approval for the dismissal order dated 21.1.1986 passed against the employee under Section 33(2)(b) of the Industrial Disputes Act. The National Industrial Tribunal by its order dated 1.9.1987 held that the dismissal order was invalid for non-compliance with the provisions of Section 33(2)(b) of the Act in that wages for one month were not paid. The Tribunal Order was not challenged. However, without reinstating the respondent and without paying him wages for the period subsequent to 21.1.1986, the appellant paid one month wages and passed a second dismissal order on 9.10.1987. The Tribunal granted its approval on the Company moving an application seeking for approval. The single Judge of the High Court upheld the Tribunal's order but a Division Bench reversed

that decision holding that the respondent should be deemed to be in continuous service of the company and entitled to all consequential benefits. When the matter was taken to the Supreme Court, the Supreme Court has held that the second order of dismissal was passed on the assumption that non-compliance with the requirements of the proviso to Section 33(2)(b) was only a technical breach, and therefore by paying one month's wages, the second order of dismissal could be passed. But, the order refusing to give approval for dismissal on the ground of non-compliance with the proviso to Section 33(2)(b) rendered it void ab initio and inoperative and the respondent was deemed to have continued in service as if no order of dismissal was passed. We are of the view that in the given set of facts, this judgment is also no way applicable to the facts of case on hand.

53. Learned counsel further relied on a decision of SONAPAT COOP.SUGAR MILLS VS. RAKESH KUMAR (2005) 13 SCC 578. That was a case in which the employer has raised a contention for the first time before the Supreme Court that the appointment of the respondent was for a specific period and the termination was on account of non-renewal of contract of employment and therefore in view of Section 2(o)(bb) did not attract Section 25-F. The Supreme Court having found that the contention advanced by the appellant before the Supreme Court was not borne out either by pleading or evidence, that the appellant did not produce any letter of appointment or other documents showing that the respondent was appointed for the period from 1.7.1998 to 31.8.1999 or the termination was on account of non-renewal of such term of appointment; that on the other hand, the specific case of the appellant before the Labour Court and in the writ petition was that there was no sanctioned post of Computer Programmer or Computer Operator and the respondent was appointed as a Computer Helper. The respondent was informed that the work was of temporary nature and his service would not be required after the staff of the Mill gained proficiency in computerisation and also from the evidence led, the finding recorded by the Labour Court that the respondent was employed on daily wage basis and had worked for more than 240 days during the period of 12 months before the date of termination, the Supreme Court has held that no interference is called for. We are afraid whether the above said judgment of the Supreme Court is applicable to the facts of the case, as the petitioners herein have not even approached the Labour Court and adduced evidence about the disputed questions of fact.

54. Mr. Prasad, learned counsel appearing for the petitioners/appellants has argued that as the Advocate General has advanced argument when the G.O.Ms.No.41 Transport Department dated 13.7.2006 was challenged that the G.O. has been issued taking into consideration of the non-filling up of the permanent vacancies, he cannot now be allowed to argue otherwise and the argument is hit by the principle of res judicata. We are surprised whether such an argument can be made or rather it can be accepted. The said argument is rejected at the threshold.

55. For the fore-going reasons, the writ appeals as well as writ petitions are dismissed. However, there is no order as to costs. Consequently, all the connected M.Ps are also dismissed.

Sd/
Asst.Registrar

/true copy/

Sub Asst.Registrar

usk

To

1. The Secretary,
The Government of Tamilnadu
Transport Department,
Fort St. George, Chennai - 9.

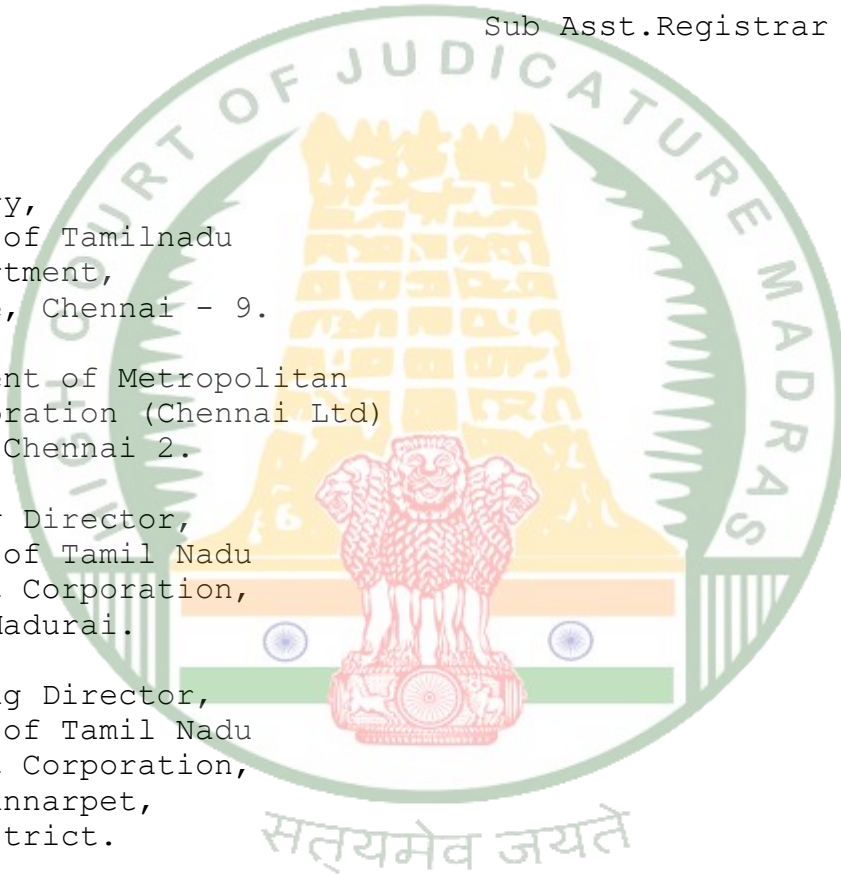
2. The Management of Metropolitan
Transport Corporation (Chennai Ltd)
Pallavan Salai Chennai 2.

3. The Managing Director,
The Management of Tamil Nadu
State Transport Corporation,
Division III, Madurai.

4. The Managing Director,
The Management of Tamil Nadu
State Transport Corporation,
Division II, Wannarpet,
Tirunelveli District.

5. The General Manager,
The State Transport Corporation,
(Madurai) Ltd, Nagercoil,
Kaanyakumari District.

6. The Managing Director,
Tamil Nadu State Transport Corporation Ltd,
(Coimbatore Division II)
Chennimalai Road,
Erode District at Erode.



WEB COPY

7. The General Managing,
Tamil Nadu State Transport Corporation Ltd.,
Coimbatore Ltd, Erode Divisional Officer,
Senniamalai Road, Erode 7.

8. The Assistant Director,
Employment Exchange,
Villupuram District.

9. The Managing Director,
The Tamilnadu Transport Corporation,
(Villupuram Kottam I), Ltd.,
Villupuram District.

10. The Special Commissioner and
Commissioner of Employment Exchange,
Chennai - 600032.

11. The Managing Director,
TNSTC Salem Division, Salem.

12. The General Manager,
TNSTC, Salem Division - II,
Salem Main Road, Bharathipuram,
Dharmapuri - 5.

13. The District Employment Exchange Officer,
Dharmapuri District, Dharmapuri.

14. The Managing Director,
Tamil Nadu State Transport Corporation,
Kovai Ltd., Coimbatore - 43.

15. The Branch Manager,
Tamil Nadu State Transport Corporation,
Erode, Erode District.

16. The Managing Director,
State Transport Corporation (Madurai) Ltd.,
Dindigul Region, Dindigul.

17. The Assistant Labour Commissioner,
Office of the Joint Commissioner of Labour,
Dindigul, Tamil Nadu.

18. The Labour Office - 2,
Kuralagam, Chennai - 108.

19. The Managing Director,
Tamil Nadu State Transport Corporation Ltd.,
37, Mettupalayam Road, Coimbatore

20. The General Manager,
Tamil Nadu State Transport Corporation Ltd.,
Mettupalayam Road, Coimbatore

21. The Managing Director,
Tamil Nadu State Transport Corporation,
(Kumbakonam Division-I) Ltd.,
Kumbakonam - 612001.

22. The Superintendent,
Metropolitan Transport Corporation,
Tondiarpet Depot, II, Chennai - 81.

23. The Managing Director,
Tamil Nadu Transport Corporation,
Kanchipuram District.

24. The Branch Manager,
Tamil Nadu Transport Corporation,
Kalpakkam, Kancheepuram District.

25. The General Manager,
Tamil Nadu State Transport Corporation,
Villupuram.

26. The Secretary to Government of Tamil Nadu,
Department of Industries and Commerce,
Fort St. George, Chennai -9.

27. The Managing Director,
Electronic Corporation of Tamilnadu Ltd.,
735, Anna Salai, Chennai - 2.

28. The Managing Director,
Tamil Nadu State Transport Corporation Ltd.,
(Salem Division I) Ramakrishna Road, Salem - 1.

29. The Deputy Commissioner of Labour,
Office of the Deputy Commissioner of Labour,
Coimbatore.

1 cc To Mr.G.J.Baskar Narayanan, Advocate, SR.62992.
1 cc To M/s. P.V.S.Giridhar Associates, Advocate, SR.63300.
1 cc To Mr.K.Thilageswaran, Advocate, SR.63472.
1 cc To Mr.S.T.Varadarajulu, Advocate, SR.63203.
3 cc To Mr.I.David Sigh, Advocate, SR.63316, 63315, 63314.
1 cc To Mr.D.Hariparanthaman, Advocate, SR.63071.
1 cc To Mr.Jayes. B.Dolia, Advocate, SR.63077.
1 cc To Mr.K.Premkumar, Advocate, SR.63158.
5 cc To Mrs.S.Hemalatha, Advocate, SR.63467 & 63468.
1 cc To M/s.Row and Reddy, Advocate, SR.63293
2 cc To Mrs.Sudha Ramalingam, Advocate, SR.63107 & 63106.
1 cc To Mr.A.Amal Raj, Advocate, SR.63028.
1 cc To Mr.R.Vaigai, Advocate, SR.63141.
1 cc To Mr.R.Subramani, Advocate, SR.63189.

1 cc To Mr.N.Subramani, Advocate, SR.63417.

W.A.NO.894 OF 2007 ETC.,
BATCH.

KM(CO)
SR, KK, DCP, RVL 29.10.2007



WEB COPY